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H.696

Introduced by Representatives Briglin of Thetford, Poirier of Barre City, Pugh  
of South Burlington, Ancel of Calais, Christensen of  
Weathersfield, Christie of Hartford, Deen of Westminster,  
Emmons of Springfield, Jickling of Randolph, Lucke of  
Hartford, Masland of Thetford, O’Sullivan of Burlington, and  
Till of Jericho

Referred to Committee on

Date:

Subject: Health; health insurance; individual mandate

Statement of purpose of bill as introduced: This bill proposes to require all  
Vermont residents to maintain minimum essential health coverage or pay a  
penalty.

An act relating to establishing a State individual mandate

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. 32 V.S.A. chapter 244 is added to read:

CHAPTER 244. REQUIREMENT TO MAINTAIN

MINIMUM ESSENTIAL COVERAGE

§ 10451. DEFINITIONS

As used in this chapter:

1           (1) “Applicable individual” means, with respect to any month, an  
2           individual other than the following:

3                   (A) an individual with a religious conscience exemption pursuant to  
4           section 10456 of this chapter;

5                   (B) an individual not lawfully present in the United States; or

6                   (C) an individual for any month if for the month the individual is  
7           incarcerated, other than incarceration pending the disposition of charges.

8           (2) “Eligible employer-sponsored plan” means, with respect to any  
9           employee, a group health plan or group health insurance coverage offered by  
10          an employer to the employee that is:

11                   (A) a governmental plan within the meaning of Section 2791(d)(8) of  
12          the federal Public Health Service Act; or

13                   (B) any other plan or coverage offered in the small or large group  
14          market within the State, including a grandfathered plan.

15           (3) “Family size” with respect to any taxpayer means the number of  
16          individuals for whom the taxpayer is allowed a deduction under federal law for  
17          the taxable year.

18           (4) “Household income” means, with respect to any taxpayer for any  
19          taxable year, an amount equal to the sum of:

20                   (A) the taxpayer’s modified adjusted gross income; plus

1           (B) the aggregate modified adjusted gross incomes of all other  
2 individuals who:

3           (i) were taken into account in determining the taxpayer’s family  
4 size; and

5           (ii) were required to file a federal tax return for the taxable year.

6           (5)(A) “Minimum essential coverage” means any of the following:

7           (i) Coverage under government-sponsored programs, including:

8                   (I) Medicare;

9                   (II) Medicaid;

10                   (III) the Children’s Health Insurance Program (CHIP);

11                   (IV) medical coverage under 10 U.S.C. chapter 55, including  
12 coverage under the TRICARE program;

13                   (V) comprehensive medical coverage through the U.S.  
14 Department of Veterans Affairs health care program;

15                   (VI) a health plan for Peace Corps volunteers pursuant to  
16 22 U.S.C. § 2504(e); and

17                   (VII) the Nonappropriated Fund Health Benefits Program of  
18 the Department of Defense, established under Section 249 of the National  
19 Defense Authorization Act for Fiscal Year 1995, Pub. L. No. 103-337;

20           (ii) coverage under an eligible employer-sponsored plan;

21           (iii) coverage under a health plan offered in the individual market;

1                   (iv) coverage under a grandfathered plan issued pursuant to  
2                   8 V.S.A. § 4080g; and

3                   (v) such other coverage as the Department of Financial  
4                   Regulation, in consultation with the Department of Vermont Health Access  
5                   and the Green Mountain Care Board, recognizes as providing minimum  
6                   essential coverage.

7                   (B) The term “minimum essential coverage” does not include any of  
8                   the following:

9                   (i) health insurance coverage that consists of coverage of excepted  
10                  benefits:

11                  (I) described in Section 2791(c)(1) of the Public Health Service  
12                  Act; or

13                  (II) described in Section 2791(c)(2), (3), or (4) of the Public  
14                  Health Service Act if the benefits are provided under a separate policy,  
15                  certificate, or contract of insurance; or

16                  (ii) such other coverage as the Department of Financial  
17                  Regulation, in consultation with the Department of Vermont Health Access  
18                  and the Green Mountain Care Board, determines does not provide minimum  
19                  essential coverage.

20                  (6) “Modified adjusted gross income” means adjusted gross income  
21                  increased by:

1           (A) any amount excluded from gross income under 26 U.S.C.  
2           § 911; and

3           (B) any amount of interest received or accrued by the taxpayer during  
4           the taxable year that is exempt from taxation.

5           § 10452. REQUIREMENT TO MAINTAIN MINIMUM ESSENTIAL  
6           COVERAGE

7           An applicable individual shall ensure that the individual and any dependent  
8           of the individual who is also an applicable individual is covered at all times  
9           under minimum essential coverage.

10          § 10453. SHARED RESPONSIBILITY REQUIREMENT; PENALTY

11          (a) If a taxpayer who is an applicable individual, or any applicable  
12          individual for whom the taxpayer is liable, fails to meet the requirement to  
13          maintain minimum essential coverage set forth in section 10452 of this chapter  
14          for one or more months of the taxable year, then, unless the taxpayer qualifies  
15          for an exemption under section 10455 or 10456 of this chapter, there shall be  
16          imposed on the taxpayer a penalty in an amount determined under subsection  
17          (c) of this section.

18          (b) Any penalty imposed pursuant to this section for any month shall be  
19          included with the taxpayer's return under chapter 151 of this title for the  
20          taxable year that includes that month.

1        (c) If an individual with respect to whom a penalty is imposed by this  
2        section for any month:

3            (1) is a dependent, as defined in 26 U.S.C. § 152, of another taxpayer for  
4        the taxable year including that month, the other taxpayer shall be liable for the  
5        penalty; or

6            (2) files a joint return for the taxable year including that month, the  
7        individual and his or her spouse shall be jointly liable for the penalty.

8        § 10454. AMOUNT OF PENALTY

9            (a) In general. The amount of the penalty imposed by this section on any  
10        taxpayer for any taxable year for failure to maintain minimum essential  
11        coverage during one or more months of that year shall be equal to the lesser of:

12            (1) the sum of the monthly penalty amounts determined in subsection  
13        (b) of this section for the month or months during the taxable year in which  
14        one or more such failures occurred; or

15            (2) an amount equal to the average premium for the applicable family  
16        size involved for a bronze-level plan offered through the Vermont Health  
17        Benefit Exchange in the calendar year with or within which the taxable  
18        year ends.

19            (b) Monthly payment amounts. For purposes of subdivision (a)(1) of this  
20        section, the monthly penalty amount with respect to any taxpayer for any  
21        month during which a failure to maintain minimum essential coverage

1 occurred is an amount equal to one-twelfth of the greater of the amounts  
2 determined pursuant to subdivisions (1) and (2) of this subsection:

3 (1) Flat dollar amounts. An amount equal to the lesser of:

4 (A) the sum of the applicable dollar amounts set forth in subsection  
5 (c) of this section for all individuals with respect to whom the failure occurred  
6 during that month; or

7 (B) 300 percent of the applicable dollar amount, determined without  
8 regard to subdivision (c)(2) of this section, for the calendar year with or within  
9 which the taxable year ends.

10 (2) Percentage of income. An amount equal to 2.5 percent of the excess  
11 of the taxpayer's household income for the taxable year over the amount of  
12 gross income specified in 26 U.S.C. § 6012(a)(1) with respect to the taxpayer  
13 for the taxable year.

14 (c) Applicable dollar amount.

15 (1) The applicable dollar amount shall be \$695.00. For each calendar  
16 year after 2019, the applicable dollar amount shall be adjusted by a percentage  
17 equal to any percentage change in the premium for the second lowest-cost  
18 bronze-level plan in the Vermont Health Benefit Exchange.

19 (2) Notwithstanding the provisions of subdivision (1) of this subsection,  
20 if an applicable individual has not attained 18 years of age as of the beginning  
21 of a month, the applicable dollar amount with respect to that individual shall be

1 equal to one-half of the applicable dollar amount for the calendar year in which  
2 the month occurs.

3 § 10455. EXEMPTIONS

4 No penalty shall be imposed pursuant to section 10453 of this chapter with  
5 respect to any of the following:

6 (1) Individuals who cannot afford coverage.

7 (A) No penalty shall be imposed on any applicable individual for any  
8 month if the individual's required contribution, determined on an annual basis,  
9 for coverage for the month exceeds 8.3 percent of the individual's household  
10 income for the taxable year. For purposes of this subdivision (A), the  
11 taxpayer's household income shall be increased by any exclusion from gross  
12 income for any portion of the required contribution made through a salary  
13 reduction arrangement.

14 (B)(i) As used in this subdivision (1), "required contribution" means:

15 (I) in the case of an individual eligible to purchase minimum  
16 essential coverage through an eligible employer-sponsored plan, the portion of  
17 the annual premium that would be paid by the individual for self-only  
18 coverage; and

19 (II) in the case of an individual eligible only to purchase  
20 minimum essential coverage in the individual market, the annual premium for  
21 the lowest-cost bronze-level plan available through the Vermont Health

1 Benefit Exchange, reduced by the amount of the federal premium tax credit for  
2 which the individual would be eligible under 26 U.S.C. § 36B and the amount  
3 of Vermont premium assistance available to the individual under 33 V.S.A.  
4 § 1812(a).

5 (ii) For purposes of subdivision (i)(I) of this subdivision (1)(B), if  
6 an applicable individual is eligible for minimum essential coverage through an  
7 employer by reason of a relationship to an employee, the determination under  
8 subdivision (A) of this subdivision (1) shall be made by reference to the  
9 required contribution of the employee.

10 (C) For each plan year after 2019, the percentage in subdivision (A)  
11 of this subdivision (1) shall be substituted with the percentage that the  
12 Commissioner of Financial Regulation, in consultation with the Commissioner  
13 of Vermont Health Access and the Chair of the Green Mountain Care Board,  
14 determines reflects the excess of the rate of premium growth for health benefit  
15 plans between the preceding calendar year and 2018 over the rate of income  
16 growth in this State for the same period.

17 (2) Taxpayers with income below the federal filing threshold. No  
18 penalty shall be imposed on any applicable individual for any month during a  
19 calendar year if the individual's household income for the most recent taxable  
20 year for which the Department of Taxes determines information is available is

1 less than the amount of gross income specified in 26 U.S.C. § 6012(a)(1) with  
2 respect to the taxpayer.

3 (3) Members of Indian tribes. No penalty shall be imposed on any  
4 applicable individual for any month during which the individual is a member  
5 of an Indian tribe as defined in 26 U.S.C. § 45A(c)(6).

6 (4) Months during short coverage gaps.

7 (A) No penalty shall be imposed for any month the last day of which  
8 occurred during a period in which the applicable individual was not covered by  
9 minimum essential coverage for a continuous period of less than three months.  
10 For purposes of this subdivision (4), the length of a continuous period shall be  
11 determined without regard to the calendar years in which the months of the  
12 period occurred.

13 (B) If a continuous period is greater than three months, no exemption  
14 shall be provided for any month in the period.

15 (C) If an applicable individual was not covered by minimum essential  
16 coverage for more than one continuous period of less than three months during  
17 the same calendar year, the exemption provided by this subdivision (4) shall  
18 apply only to the months in the first of such periods.

19 (D) The Commissioner of Taxes, in consultation with the  
20 Commissioner of Financial Regulation, shall adopt rules pursuant to 3 V.S.A.  
21 chapter 25 for collecting the penalty imposed by section 10453 of this chapter

1 in cases in which a continuous period includes months in more than one  
2 taxable year.

3 (5) Hardships.

4 (A) No penalty shall be imposed on any applicable individual who  
5 for any month is determined by the Commissioner of Vermont Health Access  
6 to have suffered a hardship with respect to the capability to obtain coverage  
7 under a qualified health plan, including if there is no affordable qualified  
8 health plan available through the Vermont Health Benefit Exchange or through  
9 the individual's employer to cover the individual, or if the individual meets the  
10 requirements for any other hardship exemption established by the  
11 Commissioner of Vermont Health Access by rule.

12 (B) The Commissioner of Vermont Health Access shall adopt rules  
13 pursuant to 3 V.S.A. chapter 25 defining the additional circumstances under  
14 which an applicable individual shall be deemed to have suffered a hardship  
15 under this subdivision (5) and setting forth the process for obtaining an  
16 exemption from the penalty.

17 § 10456. RELIGIOUS EXEMPTIONS

18 (a) An individual shall be exempt from the requirement to maintain  
19 minimum essential coverage and shall not be subject to a penalty under this  
20 chapter for any month if the individual has in effect an exemption from the  
21 Commissioner of Vermont Health Access certifying that the individual is:

1           (1) a member of a recognized religious sect or division thereof that is  
2           described in 26 U.S.C. § 1402(g)(1); and

3           (2) an adherent of established tenets or teachings of that sect or division  
4           as described in 26 U.S.C. § 1402(g)(1).

5           (b)(1) An individual shall be exempt from the requirement to maintain  
6           minimum essential coverage and shall not be subject to a penalty under this  
7           chapter for any month if the individual is a member for the month of a health  
8           care sharing ministry.

9           (2) As used in this subsection, “health care sharing ministry” means an  
10           organization:

11           (A) that is described in 26 U.S.C. § 501(c)(3) and is exempt from  
12           taxation under 26 U.S.C. § 501(a);

13           (B) the members of which share a common set of ethical or religious  
14           beliefs and share medical expenses among members in accordance with those  
15           beliefs and without regard to the State in which a member resides or is  
16           employed;

17           (C) the members of which retain membership even after they develop  
18           a medical condition;

19           (D) that, or the predecessor of which, has been in existence at all  
20           times since December 31, 1999, and medical expenses of its members have

1 been shared continuously and without interruption since at least December 31,  
2 1999; and

3 (E) that conducts an annual audit that is performed by an independent  
4 certified public accounting firm in accordance with generally accepted  
5 accounting principles and that is made available to the public upon request.

6 § 10457. ADMINISTRATION AND PROCEDURE

7 (a) Generally.

8 (1) The penalty provided in section 10453 of this chapter shall be paid  
9 upon notice and demand by the Department of Taxes and, except as provided  
10 in subdivision (2) of this subsection, shall be assessed and collected in the  
11 same manner as an assessable penalty under chapter 151 of this title.

12 (2) Notwithstanding any provision of law to the contrary:

13 (A) in the case of any failure by a taxpayer to pay timely any penalty  
14 imposed by this chapter, the taxpayer shall not be subject to any criminal  
15 prosecution or criminal penalty with respect to the failure; and

16 (B) the Commissioner of Taxes shall not:

17 (i) file notice of lien with respect to any property of a taxpayer by  
18 reason of any failure to pay the penalty imposed by this chapter; or

19 (ii) levy on any such property with respect to such failure.

20 (b) Reporting coverage.

1           (1) Each applicable individual who files or is required to file an  
2           individual income tax return as a resident of Vermont, either separately or  
3           jointly with a spouse, shall indicate on the return, in a manner prescribed by  
4           the Commissioner of Taxes, whether the individual:

5                   (A) had minimum essential coverage in effect for each of the 12  
6                   months of the taxable year for which the return is filed as required by section  
7                   10452 of this chapter, whether covered as an individual or as a named  
8                   beneficiary of a policy covering multiple individuals; or

9                   (B) claims an exemption under section 10455 or 10456 of this  
10                  chapter.

11           (2) Unless exempted from the penalty pursuant to section 10455 or  
12           10456 of this chapter, a penalty shall be assessed on the return if:

13                   (A) the applicable individual fails to indicate on the return as  
14                   required by subdivision (1) of this subsection (b) or indicates that he or she did  
15                   not have minimum essential coverage in effect; or

16                   (B) the applicable individual indicates that he or she had minimum  
17                   essential coverage in effect but the Commissioner of Financial Regulation, in  
18                   consultation with the Commissioner of Vermont Health Access and the Chair  
19                   of the Green Mountain Care Board, determines, based on the information  
20                   available to him or her, that the requirement to maintain minimum essential  
21                   coverage was not met.

1       (c) Collection of penalties. The Department of Taxes shall have all  
2       enforcement and collection procedures available under chapter 151 of this title  
3       to collect any penalties assessed pursuant to this chapter. All penalties  
4       assessed pursuant to this chapter shall be deposited into the State Health Care  
5       Resources Fund established by 33 V.S.A. § 1901d.

6           (1) If in any taxable year, in whole or in part, a taxpayer does not  
7       comply with the requirement to maintain minimum essential coverage, the  
8       Commissioner shall retain any amount overpaid by the taxpayer for purposes  
9       of making payments; provided, however, that the amount retained shall not  
10       exceed 50 percent of the premium for the lowest-cost bronze-level qualified  
11       health benefit plan offered through the Vermont Health Benefit Exchange  
12       during the previous year.

13           (2) If the amount retained pursuant to subdivision (1) of this subsection  
14       is insufficient to satisfy the penalty assessed, the Commissioner shall notify the  
15       taxpayer of the balance due on the penalty and any related interest.

16       (d) Appeals. Any applicable individual shall have the right to appeal a  
17       penalty collected pursuant to section 10453 of this chapter or the denial of an  
18       exemption pursuant to section 10455 or 10456 of this chapter.

19       (e) Rulemaking. The Commissioner of Taxes, in consultation with the  
20       Department of Financial Regulation, the Department of Vermont Health

- 1 Access, and the Green Mountain Care Board, shall adopt rules pursuant to
- 2 3 V.S.A. chapter 25 as needed to carry out the purposes of this chapter.
- 3 Sec. 2. EFFECTIVE DATE
- 4 This act shall take effect on January 1, 2019.